REMARKS

This Amendment is responsive to the Office Action dated September 5, 2003. Applicants have not amended any of claims 1-46. Applicants have added new claims 47-49. Claims 1-49 are now pending.

In the Office Action, the Examiner rejected claims 1, 5, 9, 10, 14, 18, 22, 26, 29-30, 32, 35-36, 38, and 41-42 under 35 U.S.C. 102(b) as being anticipated by Bengtson (US Patent 5,659,638). In addition, the Examiner rejected claims 3-4, 6-8, 12-13, 15-17, 20-21, 23-25, 28, 31, 34, 37, 40, and 43 under 35 U.S.C. 103(a) as being unpatentable over Bengtson; and rejected claims 2, 11, 19, 27, 33, 39, and 44-46 under 35 U.S.C. 103(a) as being unpatentable over Bengtson in view of Bando (US Patent 6,449,053 B2).

Applicants respectfully traverse the Examiner's rejections. None of the applied references discloses or suggests the features recited in Applicants' claims. Moreover, the applied references fail to provide any teaching that would have suggested the desirability of modification to arrive at the claimed invention. For these reasons, all pending rejections are improper and should be withdrawn.

All of Applicants' pending claims recite *identifying* implicit color commands within a page description file. Neither Bengtson nor Bando discloses or suggests the identification of implicit color commands within a page description file. For this reason alone, the pending rejections should be withdrawn.

Claim 1 recites a method for modification of color values in a page description file. The method comprises identifying implicit color commands within the page description file, and converting the implicit color commands within the page description file to explicit color commands.

In rejecting claim 1, the Examiner stated that Bengtson discloses identifying implicit color commands within a page description file and converting the implicit color commands within the page description file to explicit color commands. The Examiner cited column 1, lines 40-54 in support of this position.

Applicants' respectively submit, however, that the Examiner has misconstrued Bengtson. Nothing in column 1, lines 40-54, of Bengtson discloses or suggests the identification of implicit color commands within a page description file. Moreover, nothing in column 1, lines 40-54, of Bengtson discloses or suggests converting the implicit color commands *within the page*

-10-

description file to explicit color commands. Accordingly, the rejection of claim 1 is improper and should be withdrawn.

Column 1, lines 40-54, of Bengtson merely discloses the operation of a conventional converter commonly known as a raster image processor (RIP). As described in column 1, lines 40-54 cited by the Examiner, a raster image processor converts data expressed in a page description language to a bit map that can drive a printer. However, a conventional raster image processor does nothing in the way of identifying implicit color commands as recited in claim 1. On the contrary, a conventional raster image processor, as described in Bengtson, converts all of the elements expressed in a page description language to a bit map that can be used to drive the printer.

Moreover, a conventional raster image processor does nothing in the way of converting the implicit color commands *within the page description file* to explicit color commands. In particular, a conventional raster image processor does no conversion *within the page description file*, but rather, converts all of the elements of the page description file to a bit map.

Applicants' claims recite the identification of implicit color commands within a page description file. This can allow the implicit color commands to be converted to explicit color commands within the page description file. Accordingly, Applicants' claimed invention facilitates the ability to perform color correction within the page description file, e.g., by modifying color values specified by the explicit color commands, as recited in claim 3.

Nothing in Bengtson discloses or suggests the identification of implicit color commands within a page description file. Moreover, Bengtson is not even concerned with modification of color values *in a page description file*, as clearly recited in the preamble of claim 1 and other claims. The conventional raster image processing technique disclosed in Bengtson simply converts a page description file to a bit map, which does not include any identification of implicit color commands as recited, e.g., in claim 1, or allow for modification of color values in the page description file as recited, e.g., in claim 3.

As discussed in Applicants' disclosure, an implicit color command is a page description file color command which specifies color values indirectly. Instead of explicitly assigning a color value to a particular object or region within an image, an implicit color command defines the color of an object or region as a function of other graphic information and color reference values.

An explicit color command, in contrast, is a page description file color command which assigns an explicit color value to an object or region in an image. Thus, in general, an explicit color command is a page description color command that does not rely on a graphic function or reference values to determine an applicable color value. Instead, an object or region defined by an explicit color command generally carries its own explicitly defined color value within the page description file.

Again, Bengtson fails to disclose a technique involving identification of implicit color commands. Moreover, Bengtson also fails to suggest the conversion of the implicit color commands to explicit color commands. In the passage cited by the Examiner, Bengtson does not refer to identifying implicit color commands nor converting such commands within the page description file to explicit color commands. Bengtson merely discloses a conventional RIPing technique that results in the conversion of all elements of a page description file to a bit map that can be used to drive a printer.

All of Applicants' pending claims recite identifying implicit color commands within a page description file. Neither Bengtson nor Bando discloses or suggests the identification of implicit color commands within a page description file. For this reason, the pending rejections must be withdrawn.

With regard to Applicants' dependent claims, Applicants are somewhat confused as to the Examiner's rationale in rejecting the claims. For example, many dependent claims and some independent claims recite modifying the explicit color values specified by the implicit color commands within the page description file without RIP-converting the page description file. Such features of Applicants' pending claims seem to be at odds with the passage of Bengtson cited by the Examiner, which generally relates to RIP-converting a page description file. For example, whereas claim 2 recites conversion of the implicit commands without raster image processing the page description file, Bengtson specifically focuses on raster image processing.

Moreover, many claims recite modifying color values specified by the explicit color commands that were converted from the identified implicit color commands. Not only are such features lacking from Bengtson, but this technique is entirely different than general RIP-converting as described in Bengtson.

The Examiner acknowledged that Bengtson fails to disclose or suggest modifying the color values of the explicit color commands, but stated that this would have been obvious to a person with ordinary skill in the art. Applicants respectfully dispute this point.

First, the Court of Appeals for the Federal Circuit recently addressed the evidentiary standard required to uphold an obviousness rejection.[1] Specifically, the Federal Circuit stated: "[the] factual question of motivation is material to patentability, and (can) not be resolved on subjective belief and unknown authority.[2] This finding must be based upon substantial evidence, and not subjective musings or conjecture by the Examiner.[3] Deficiencies in the evidentiary record cannot be cured by general conclusions such as "general knowledge" or "common sense."[4] Accordingly, the Examiner cannot rely on unsupported, conclusory statements to close holes in the evidentiary record.[5]

Second, Applicants' claimed technique is entirely different than general RIP-converting as described in Bengtson. In view of the prior art of record, it is entirely unclear why a person with ordinary skill in the art would have implemented Applicants' claimed technique as part of a RIP-converting process, as suggested by the Examiner. The RIP-converting process simply converts the explicit color commands and the implicit color commands of the page description file to a bit map used to drive a printer.

The Examiner also recognized that Bengtson does not disclose or suggest the conversion of implicit color commands without raster image processing the page description file, e.g., as recited in claim 2 and other claims. The Examiner cited the abstract of Bando (U.S. 6,44,9,053) as disclosing this feature, and stated that it would have been obvious to a person with ordinary skill in the art to combine the teaching of Bengtson with that of Bando in order to arrive at Applicants' claimed invention. The Examiner's reliance on Bando is misplaced.

First, Applicants' dispute the Examiner interpretation of Bando. Bando does not suggest the conversion of implicit color commands without raster image processing the page description file. The passage of Bando cited by the Examiner simply describes a technique in which the RIPing is performed at a RIP server rather than at the printer. In the technique described by Bando, the RIP server sends bitmaps directly to the printer after the RIPing is performed at the

---

[1] *In re Lee*, 61 USPQ2d 1430, (CAFC 2002).
[2] *Id.* at 1434.
[3] *Id.*
[4] *Id.*

-13-

RIP server. In that case, the printer does not need a raster image processor because the RIPing was already performed. Bando has little or nothing in common with the technique recited in Applicants' claims.

Second, even if one of ordinary skill in the art combined the teaching of Bengtson with Bando, he or she still would not arrive at Applicants' claimed technique. To be sure, Bando, like Bengtson, does not disclose or suggest the identification of implicit color commands. Moreover, Bando, like Bengtson, also fails to suggest the conversion of the implicit color commands to explicit color commands.

It is very unclear what modification to Bengtson a person with ordinary skill in the art would have made in view of Bando. Bengtson simply discloses RIPing in general. Bando discloses RIPing at a server and then supplying a bit map to a printer. Neither Bengtson, nor Bando nor a combination of Bengtson and Bando is remotely suggestive of the features of Applicants' claims.

In order to support a rejection under 35 U.S.C. §102, it is well established that a prior art reference must disclose each and every element of a claim. For a rejection under §103, there must be a teaching in the prior art that would have suggested the necessary modifications to arrive at the claimed invention, and a motivation to undertake such modifications.

As set forth above, Bengtson and Bando fail to disclose each and every limitation set forth in original claims 1-46 and new claims 47-49. In particular, the Examiner has found nothing in the prior art which suggests the identification of implicit color commands in a page description file. Moreover, the prior art also fails to suggest the conversion of these identified implicit color commands within the page description file to explicit color commands.

---

[5] *Id.*

For at least these reasons set forth above, the Examiner has failed to establish a prima facie case of anticipation or obviousness of Applicants' claims. Applicants in no way acquiesce to any of the Examiner's characterizations of the applied references with respect to the features recited Applicants' independent or dependent claims. Applicants respectfully request reconsideration and prompt allowance of all pending claims for at least the reasons set forth above. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

Jan. 5, 2004

SHUMAKER & SIEFFERT, P.A.
8425 Seasons Parkway, Suite 105
St. Paul, Minnesota 55125
Telephone: 651.735.1100
Facsimile: 651.735.1102

By:
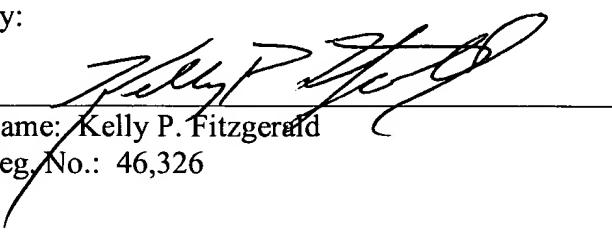
Name: Kelly P. Fitzgerald
Reg. No.: 46,326